

Executive Summary – Enforcement Matter – Case No. 50623
Daniel R. Soto and DRS Rock Materials, LLC
RN106963036 and RN106962020
Docket No. 2015-0824-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

DS Quarry ("Site 1"), located approximately 17 miles east of Horizon City, Hudspeth County

Permanent Rock Crushing Plant ("Site 2"), located approximately 2.5 miles northeast of the easternmost edge of Farm-to-Market Road 1281, Hudspeth County

Type of Operation:

Aggregate production operation ("APO")

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 6, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,000

Amount Deferred for Expedited Settlement: \$2,000

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$230

Total Due to General Revenue: \$7,770

Payment Plan: 35 payments of \$222 each

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications (RN106963036):

Person/CN - Satisfactory

Site/RN - N/A

Compliance History Classifications (RN106962020):

Person/CN - High

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: \$9,150

Applicable Penalty Policy: April 2014

**Executive Summary – Enforcement Matter – Case No. 50623
Daniel R. Soto and DRS Rock Materials, LLC
RN106963036 and RN106962020
Docket No. 2015-0824-WQ-E**

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 23, 2015

Date(s) of NOE(s): May 20 and 22, 2015

Violation Information

1. Failed to renew the APO registration annually as regulated activities continued. Specifically, APO Registration No. AP0000708 for Site 1 expired on October 29, 2014, and the Respondents continued to operate [30 TEX. ADMIN. CODE § 342.25(d)].

2. Failed to renew the APO registration annually as regulated activities continued. Specifically, APO Registration No. AP0000707 for Site 2 expired on October 29, 2014, and the Respondents continued to operate [30 TEX. ADMIN. CODE § 342.25(d)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondents have implemented the following corrective actions:

a. On June 23, 2015, obtained APO authorization under APO Registration No. AP0001344 for Site 1.

b. On June 23, 2015, obtained APO authorization under APO Registration No. AP0001346 for Site 2.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 50623
Daniel R. Soto and DRS Rock Materials, LLC
RN106963036 and RN106962020
Docket No. 2015-0824-WQ-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jason Fraley, Enforcement Division,
Enforcement Team 3, MC 169, (512) 239-2552; Michael Parrish, Enforcement Division,
MC 219, (512) 239-2548

TCEQ SEP Coordinator: N/A

Respondent: Daniel R. Soto, President, DRS Rock Materials, LLC, 15089 Horizon
Boulevard, El Paso, Texas 79928

Respondent's Attorney: N/A



Policy Revision 4 (April 2014)

Penalty Calculation Worksheet (PCW)

PCW Revision March 26, 2014

TCEQ

DATES

Assigned

26-May-2015

PCW

7-Jul-2015

Screening

1-Jun-2015

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Daniel R. Soto and DRS Rock Materials, LLC (Site 1)

Reg. Ent. Ref. No. RN106963036

Facility/Site Region 6-El Paso

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 50623

Docket No. 2015-0824-WQ-E

Media Program(s) Aggregate Production Operation

Multi-Media

No. of Violations 1

Order Type 1660

Government/Non-Profit No

Enf. Coordinator Gregory Zychowski

EC's Team Enforcement Team 3

Admin. Penalty \$ Limit Minimum

\$5,000

Maximum

\$10,000

Violation Maximum

\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1

\$500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

0.0%

Enhancement

Subtotals 2, 3, & 7

\$0

Notes

No adjustment for Compliance History.

Culpability

No

0.0%

Enhancement

Subtotal 4

\$0

Notes

The Respondents does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5

-\$50

Economic Benefit

0.0% Enhancement*

Subtotal 6

\$0

Total EB Amounts

\$7

Estimated Cost of Compliance

\$225

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal

\$450

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

\$450

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$5,000

Notes

The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102.

DEFERRAL

20.0%

Reduction

Adjustment

-\$1,000

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$4,000

Screening Date 1-Jun-2015

Docket No. 2015-0824-WQ-E

PCW

Respondent Daniel R. Soto and DRS Rock Materials, LLC (Site 1)

Policy Revision 4 (April 2014)

Case ID No. 50623

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106963036

Media [Statute] Aggregate Production Operation

Enf. Coordinator Gregory Zychowski

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for Compliance History.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 1-Jun-2015

Docket No. 2015-0824-WQ-E

PCW

Respondent Daniel R. Soto and DRS Rock Materials, LLC (Site 1)

Policy Revision 4 (April 2014)

Case ID No. 50623

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106963036

Media [Statute] Aggregate Production Operation

Enf. Coordinator Gregory Zychowski

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 342.25(d)

Violation Description

Failed to renew the aggregate production operation ("APO") registration annually as regulated activities continued, as documented during an investigation conducted on April 23, 2015. Specifically, APO Registration No. AP0000708 expired on October 29, 2014, and the Respondents continued to operate.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1

237 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$50

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent achieved compliance on June 23, 2015.

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$450

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent Daniel R. Soto and DRS Rock Materials, LLC (Site 1)

Case ID No. 50623

Reg. Ent. Reference No. RN106963036

Media Aggregate Production Operation

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$225	29-Oct-2014	23-Jun-2015	0.65	\$7	n/a	\$7

Notes for DELAYED costs

Estimated cost to register as an APO. Date Required is the date the registration expired. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$225

TOTAL

\$7

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TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN602684904, RN106963036, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN602684904, Soto, Daniel R.

Classification: SATISFACTORY

Rating: 4.50

Regulated Entity: RN106963036, DS QUARRY

Classification: NOT APPLICABLE

Rating: N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 04 - Mining

Location: APPROXIMATELY 17 MILES EAST OF HORIZON CITY, IN HUDSPETH COUNTY, TEXAS

TCEQ Region: REGION 06 - EL PASO

ID Number(s):

AGGREGATES REGISTRATION AP0001344

Compliance History Period: September 01, 2009 to August 31, 2014

Rating Year: 2014

Rating Date: 09/01/2014

Date Compliance History Report Prepared: July 07, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 07, 2010 to July 07, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Greg Zychowski

Phone: (512) 239-3158

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	26-May-2015	Screening	1-Jun-2015	EPA Due	
	PCW	7-Jul-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	Daniel R. Soto and DRS Rock Materials, LLC (Site 2)		
Reg. Ent. Ref. No.	RN106962020		
Facility/Site Region	6-El Paso	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	50623	No. of Violations	1
Docket No.	2015-0824-WQ-E	Order Type	1660
Media Program(s)	Aggregate Production Operation	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Gregory Zychowski
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$5,000	Maximum	\$10,000
		Violation Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	-10.0%	Enhancement	Subtotals 2, 3, & 7	-\$50
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Notes Reduction for High Performer classification.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$50
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$7
Estimated Cost of Compliance \$225
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$400
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$400
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,000
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Notes

The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102.

DEFERRAL	20.0%	Reduction	Adjustment	-\$1,000
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$4,000
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Screening Date 1-Jun-2015

Docket No. 2015-0824-WQ-E

PCW

Respondent Daniel R. Soto and DRS Rock Materials, LLC (Site 2)

Policy Revision 4 (April 2014)

Case ID No. 50623

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106962020

Media [Statute] Aggregate Production Operation

Enf. Coordinator Gregory Zychowski

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 1-Jun-2015

Docket No. 2015-0824-WQ-E

PCW

Respondent Daniel R. Soto and DRS Rock Materials, LLC (Site 2)

Policy Revision 4 (April 2014)

Case ID No. 50623

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106962020

Media [Statute] Aggregate Production Operation

Enf. Coordinator Gregory Zychowski

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 342.25(d)

Violation Description Failed to renew the aggregate production operation ("APO") registration annually as regulated activities continued, as documented during an investigation conducted on April 23, 2015. Specifically, APO Registration No. AP0000707 expired on October 29, 2014, and the Respondents continued to operate.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1

237 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$50

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent achieved compliance on June 23, 2015.

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$400

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent Daniel R. Soto and DRS Rock Materials, LLC (Site 2)

Case ID No. 50623

Reg. Ent. Reference No. RN106962020

Media Aggregate Production Operation

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$225	29-Oct-2014	23-Jun-2015	0.65	\$7	n/a	\$7

Notes for DELAYED costs

Estimated cost to register as an APO. Date Required is the date the registration expired. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$225

TOTAL

\$7

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TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN603435454, RN106962020, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN603435454, DRS Rock Materials, LLC **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN106962020, PERMANENT ROCK CRUSHING PLANT **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 04 - Mining

Location: APPROXIMATELY 2.5 MILES NORTHEAST OF THE EASTERNMOST EDGE OF FARM-TO-MARKET ROAD 1281, IN HUDSPETH COUNTY, TEXAS

TCEQ Region: REGION 06 - EL PASO

ID Number(s):
AGGREGATES REGISTRATION AP0001346 **WATER QUALITY NON PERMITTED ID NUMBER** R06106962020

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: July 07, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 07, 2010 to July 07, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Greg Zychowski **Phone:** (512) 239-3158

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

- A. Final Orders, court judgments, and consent decrees:**
N/A
- B. Criminal convictions:**
N/A
- C. Chronic excessive emissions events:**
N/A
- D. The approval dates of investigations (CCEDS Inv. Track. No.):**
N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
DANIEL R. SOTO AND	§	TEXAS COMMISSION ON
DRS ROCK MATERIALS, LLC	§	
RN106963036 AND RN106962020	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2015-0824-WQ-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Daniel R. Soto and DRS Rock Materials, LLC ("Respondents") under the authority of TEX. WATER CODE chs. 7 and 28A. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents together stipulate that:

1. The Respondents are responsible parties as defined in TEX. WATER CODE § 28A.001(6), because they are the owners as defined in TEX. WATER CODE § 28A.001(5) and operators as defined in TEX. WATER CODE § 28A.001(4), of aggregate production operations ("APOs," collectively referred to as the "Sites") located approximately 17 miles east of Horizon City, in Hudspeth County, Texas ("Site 1"), and approximately 2.5 miles northeast of the easternmost edge of Farm-to-Market Road 1281, in Hudspeth County, Texas ("Site 2"). Aggregates are being or have been removed or extracted from the Sites' earth. Therefore, the Sites are APOs as defined in TEX. WATER CODE § 28A.001(1).
2. The Executive Director and the Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondents are subject to the Commission's jurisdiction.
3. The Respondents received notice of the violations alleged in Section II ("Allegations") on or about May 25 and May 27, 2015.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

5. An administrative penalty in the amount of Ten Thousand Dollars (\$10,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondents have paid Two Hundred Thirty Dollars (\$230) of the administrative penalty and Two Thousand Dollars (\$2,000) is deferred contingent upon the Respondents' timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondents fail to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondents to pay all or part of the deferred penalty.

The remaining amount of Seven Thousand Seven Hundred Seventy Dollars (\$7,770) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Twenty-Two Dollars (\$222) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondents fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondents to meet the payment schedule of this Agreed Order constitutes the failure by the Respondents to timely and satisfactorily comply with all the terms of this Agreed Order.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director and the Respondents agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. The Executive Director recognizes that the Respondents have implemented the following corrective actions:
 - a. On June 23, 2015, obtained APO authorization under APO Registration No. AP0001344 for Site 1.
 - b. On June 23, 2015, obtained APO authorization under APO Registration No. AP0001346 for Site 2.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operators of the Site, the Respondents are alleged to have:

1. Failed to renew the APO registration annually as regulated activities continued, in violation of 30 TEX. ADMIN. CODE § 342.25(d), as documented during an investigation conducted on April 23, 2015. Specifically, APO Registration No. AP0000708 for Site 1 expired on October 29, 2014, and the Respondents continued to operate.
2. Failed to renew the APO registration annually as regulated activities continued, in violation of 30 TEX. ADMIN. CODE § 342.25(d), as documented during an investigation conducted on April 23, 2015. Specifically, APO Registration No. AP0000707 for Site 2 expired on October 29, 2014, and the Respondents continued to operate.

III. DENIALS

The Respondents generally deny each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondents pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondents' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Daniel R. Soto and DRS Rock Materials, LLC, Docket No. 2015-0824-WQ-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. If the Respondents fail to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondents' failure to comply is not a violation of this Agreed Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become

aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Sites operations referenced in this Agreed Order.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



8/8/16

For the Executive Director

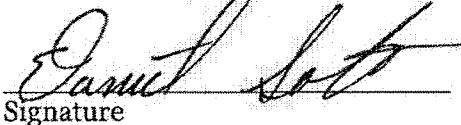
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

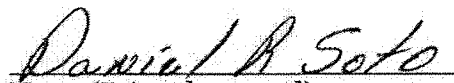
I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

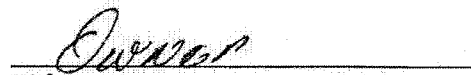
- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

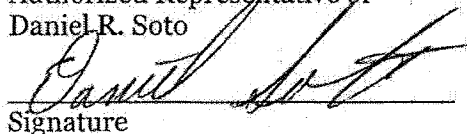
In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

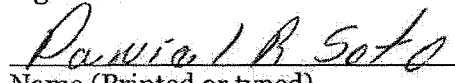
01-28-16
Date


Name (Printed or typed)
Authorized Representative of
Daniel R. Soto


Title


Signature

1-28-16
Date


Name (Printed or typed)
Authorized Representative of
DRS Rock Materials, LLC


Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.